



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,936	04/07/2006	Gary L. Hopkins Sr.	AH126/2005.4	1251

7590 02/23/2011
David W. Carrithers
CARRITHERS LAW OFFICE, PLLC
Ste 206
6200 Dutchman's Lane
Louisville, KY 40205

EXAMINER

VAN, QUANG T

ART UNIT	PAPER NUMBER
----------	--------------

3742

MAIL DATE	DELIVERY MODE
-----------	---------------

02/23/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,936	Applicant(s) HOPKINS SR., GARY L.	
	Examiner Quang T. Van	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Specification

1. The abstract of the disclosure is objected to because the legal phraseology such as “means” or “**comprises**” or “comprising” often used in patent claims should be avoided in the abstract. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, the term "an insulating container", recited in line 1, is indefinite because it is unclear whether the container is electrical or thermal insulated.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 11, 15, 17, 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Goltsos (US 4,013,798). Goltsos discloses a selective ventable food package and microwave shielding device comprising at least one first container (22, 24) defining at least one first volume for holding a food product, the container including at least one venting mechanism (36); and a second container (26) operatively coupled to

Art Unit: 3742

the at least one first container (22, 24), wherein the second container defines a second volume, the second container including at least one venting mechanism (col. 4, lines 29-31); wherein steam created by the cooking of the food product in the at least one first container creates a first pressure treatment for the food product before venting into the second volume defined by the second container (col. 4, lines 32-40), wherein the second volume creates a second pressure treatment for the food product as a result of steam venting from the first container into the second container (col. 4, lines 32-40).

6. Claims 1-7, 12, 14, 15, 17-18, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Burdette (US 4,596,713). Burdette discloses a microwave food packets capable of dispersing a food additive during heating comprising at least one first container (9) defining at least one first volume for holding a food product, the container including at least one venting mechanism (19, figure 5); and a second container (6) operatively coupled to the at least one first container (9), wherein the second container defines a second volume, the second container including at least one venting mechanism (25, col. 9, lines 56-60); wherein steam created by the cooking of the food product in the at least one first container creates a first pressure treatment for the food product before venting into the second volume defined by the second container (col. 8, lines 24-27), wherein the second volume creates a second pressure treatment for the food product as a result of steam venting from the first container into the second container (col. 9, lines 56-60).

7. Claims 1-10, 12, 17, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Beauvais et al (US 4,409,454). Beauvais discloses a microwave canning

Art Unit: 3742

apparatus comprising at least one first container (2) defining at least one first volume for holding a food product, the container including at least one venting mechanism (34); and a second container (6) operatively coupled to the at least one first container (2), wherein the second container defines a second volume, the second container (6) including at least one venting mechanism (44, col. 4, lines 18-19); wherein steam created by the cooking of the food product in the at least one first container (2) creates a first pressure treatment for the food product before venting into the second volume defined by the second container (col. 3, lines 29-31), wherein the second volume creates a second pressure treatment for the food product as a result of steam venting from the first container into the second container (col. 4, lines 52-56).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beauvais et al (US 4,409,454) in view of Croner (US 3,743,520). Beauvais discloses substantially all features of the claimed invention except the second container encloses all of the first containers. Croner discloses a second container encloses all of the first containers (Figures 1a and 4a). It would have been obvious to one ordinary skill in the art at the time the invention was made to utilize in Beauvais a second container

Art Unit: 3742

encloses all of the first containers as taught by Croner in order to suit to user application.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burdette (US 4,596,713). Burdette discloses substantially all features of the claimed invention including at least one first container is a upper sealed portion of a cooking bag, but does not disclose a lower sealed portion of a cooking bag. It would have been obvious to one ordinary skill in the art at the time the invention was made to have at least one first container is a lower sealed portion of a cooking bag, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japike*, 86 USPQ 70.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 5:00Pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang T Van/
Primary Examiner, Art Unit 3742
February 17, 2011

Quang T Van
Primary Examiner
Art Unit 3742